GOVERNMENT OF MYSORE

FOOD, CIVIL SUPPLIES AND LABOUR DEPARTMENT (LABOUR)

Labour Dispute.—Industrial Dispute between the Workmen and the Management of Indian Hume Pipe Ltd., Hubli.

Award of the Labour Court, Hubli—Published.

Read the following papers :—

(i) Letter No. 1245/67-68, dated 25th August 1967, from Shri Syed Azizuddin Ahmed, Presiding Officer, Labour Court, Hubli.

IN THE LABOUR COURT AT HUBLI.

Dated 25th August 1967.

Reference.

(ID) (LCH) No. 24 of 1965.

Present

Sri Syed Azizuddin Ahmed M.A., B.L., ... *Presiding Officer*

Between :

The Workmen of Indian Hume Pipe Co., Ltd., Hubli represented by The General Secretary, The Indian Hume Pipe Co., Kamgar Union, Hubli ... *I Party*

and

The Management, Indian Hume Pipe Co., Ltd., Hubli ... *II Party*

This is a refernce U/s 10 (1) (c) of the Industrial Disputes Act, 1947 made by the Government of Mysore in their Order No. PLM 8 LLD 64, dated 18th October 1965. The points of dispute referred for adjudication are as under :—

> Whether the dismissal of Sri Lalappa Devendrappa from the services of Indian Hume Pipe Co. Ltd., Hubli as per their dismissal order dated 30th June 1962 is in order?

2. If not, to what relief the workers is entitled ?

2. The cause of the aggrieved workman Sri Lalappa Devendrappa has been sponsored and espoused by the Indian Hume Pipe Co.; Kamgar Union, Hubli reperesented by its General Secretary. The aggrieved workman himself conducted the ease on the date of hearing. Sri V. N. Apte, Advocate appeared for the II Party. In response to the notices issued by the Court, the I Party filed its claim Statement dated 1st December 1965 and the II Party its Counter Statement, dated 31st December 1965.

3. The case of the aggrieved workman is that he was working in the II Party management since 1946, bearing a very good record of service. The management charge-sheeted him and removed him from service. The charge-sheet was issued with a view to harrass and victimise him. The appointment of Sri V. N. Apte, Advocate, Hubli as an enquiry officer to conduct the domestic enquiry against him was highly improper for the reason that the learned advocate had personal interest in the affairs of the management. The domestic enquiry assailed on diverse grounds, the target of attack being Sri V. N. Apte, Advocate.

4. The management, in their counter statement, maintained that in view of the fact that the manager of the factory was one of the main witnesses to the incident of misconduct of the workman, Sri V. N. Apte, Advocate was specifically appointed as the enquiry officer for conducting the enquiry in the matter. At the time of enquiry, all the principles of natural justice were observed by giving full opportunity to the aggrieved workman to cross-examine the witnesses and to adduce his evidence. Thus, the enquiry was properly held. The aggrieved workman examined himself and closed his evidence. The management examined two witnesses, they are Sri V. B. Patil the Manager and Sri V. N. Apte, Advocate.

Findings

5. The most important point for determination is whether the dismissal order dated 30th June 1962 is in order ? Sri V. B. Patil, M. W. 1, the factory manager deposed that in the months January and February, 1962, the production in the factory had gone down by 50 per cent. He asked the workmen about the low production.

They replied that the work was being done in his presence, thereby meaning that he has been watching their performance. On 28th March 1962, he attended the factory work at the moulding machine continuously from 8 A.M. to 5 P. M. While he was standing there, Sri Lalappa, who was working on 6′ moulding machine deliberately dropped down 6′ coller mould containing 10 wet collars, causing thereby breakage. He (M. W. 1) asked him why he was behaving in that manner. He replied that those things were bound to happet. He asked him to be careful lest the company should suffer loss. Thereupon, Sri Lalappa with red oven eye told him "ಹೊಯಿಕೊಳ್ಳ ಬೇಡಾ" (do not baul out) It is this word that has pained the manager. He has taken this to heart. Sri V. N. Apte, M. W. 2 had deposed about the proceedings of the domestic enquiry. Lalappa, W. W. 1, the aggrieved workman has denied that he had uttered the objectionable words with reference to Sri V. B. Patil. He attributed it to himself. Whatever it be, there seems to be much substance in the stand of the aggrieved workman that Sri V. N. Apte could not have been a proper enquiry officer. Sri V. N. Apte is a Legal Remembrancer and Public Relations Officer of the Employers Association, India, Hubli. He was appointed as the enquiry officer, he has conducted the enquiry for the management, he takes up the dispute of the management and fights it out even now and he appears in the witness-box and deposes against the person against whom he had held the domestic enquiry and given his findings. It is a fundamental principle of law that justice should not only be done but it should be made to appear that justice is being done. The apprehensions of the aggrieved workman were rightly felt and justly entertained about the appointment of Sri V. N. Apte as enquiry officer. I would like to make it clear that this is no disparagement of Sri V. N. Apte. He was not well advised in accepting this assignment. The domestic enquiry cannot inspire confidence. The order of dismissal, dated 30th June 1962 cannot be held to be in order. The point of dispute is decided in favour of the aggrieved workman. However, this does not mitigate the effect of his using the words "ಹೊಯಿಕೊಳ್ಳ ಬೇಡಾ"

AWARD

The dismissal of Sri Lalappa Devendrappa from the service of Indian Hume Pipe Co., Ltd., Hubli as per the dismissal Order, dated 30th June 1962 is not in order. He is entitled for reinstatement but without back-wages and without continuity of service. No order as to costs.

SYED AZIZUDDIN AHMED,
Presiding Officer,
Labour Court, Hubli

Place : Hubli

Date : 25th August 1967.

ANNEXURE

Reference (I.D.) (LCH) No. 24/1965.

Witnesses examined for I Party

W.W. 1 Lalappa Devendrappa Kattimani

Witnesses examined for II Party

M.W. 1 Veeranna Bhadragouda Patil
M.W. 2 Vasudev Narayan Apte

Documents marked for I Party

Nil

Documents marked for II Party

Exhibits:

M–1 Charge-sheet issued by II Party to W.W. 1 dated 29th March 1962

M–2 Copy of application in reply to the above by W.W. 1, dated 30th March 1962

M-3 Letter dated 24th April 1962 from II Party to Sri V. N. Apte regarding holding of enquiry

M-4 Copy of dismissal order dated 30th June 1962

M-5 Copy of findings of Sri V. N. Apte against W.W. 1

M-6 Copy of judgment of Application (LCH) No. 126 of 1962 on the file of Labour Court, Hubli

M-7 Letter from II party to V. N. Apte regarding enquiry of W.W. 1 dated 14th May 1962

M-7 (a) Endorsement of Sri V. N. Apte on Ex.M-7

M-7 (b) Signature of W.W. 1 on Ex.M-7

SYED AZIZUDDIN AHMED.
Presiding Officer,
Labour Court, Hubli.

Place: Hubli.
Dated: 25th August 1967.

ORDER.

Bangalore, dated 31st August 1967.

S. O. 1741.—WHEREAS by State Government Order No. PLM 8 LLD 64, dated 18th October 1965, the Industrial Dispute between the Workmen and the Management of Indian Hume Pipe Ltd., Hubli was referred to the Labour Court, Hubli for adjudication.

AND WHEREAS the Labour Court has submitted to the State Government its award in respect of the said Industrial Dispute;

NOW, THEREFORE, In exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Government of Mysore are pleased to direct the publication of the said award as above in the *Mysore Gazette*.

[No. PLM 8 LLD 64.]

By Order and in the name of the Governor of Mysore,

1017 G. G. PUROHIT, *Under Secy.*